

Members

Rep. Vanessa Summers, Chairperson
Rep. Michael Dvorak
Rep. Cleo Duncan
Rep. Brent Steele
Sen. David Ford
Sen. Richard Bray
Sen. Anita Bowser
Sen. Billie Breaux
Karon Perkins
Bruce Pennamped
Cynthia Ayres
Carol Bramham



INDIANA CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

*Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554*

LSA Staff:

Andrew Roesener, Attorney for the Committee
Mark Goodpaster, Fiscal Analyst for the
Committee

Authority: IC 33-2.1-10-1

MEETING MINUTES¹

Meeting Date: October 23, 2002
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., 233
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Vanessa Summers, Chairperson; Rep. Cleo Duncan; Sen. Richard Bray; Sen. Anita Bowser; Sen. Billie Breaux; Bruce Pennamped.

Members Absent: Rep. Michael Dvorak; Rep. Brent Steele; Sen. David Ford; Karon Perkins; Cynthia Ayres; Carol Bramham.

Call to order

Representative Summers called the meeting to order at 10:15 a.m.

Arbitration in domestic relations cases

Committee member and attorney Bruce Pennamped gave a presentation on the benefits of arbitration in domestic relations cases. Indiana has a general arbitration statute under

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

IC 34-57 and the Indiana rules of court provide for arbitration as a form of alternative dispute resolution. Mr. Pennamped noted that alternative dispute resolution rule 1.6 allows a judge in a civil case to order domestic relations cases to nonbinding arbitration.

Mr. Pennamped presented information on a recent Indiana Court of Appeals case that nullified an arbitration agreement in a dissolution of marriage action. (See In re the Marriage of Troy D. Cohoon v. Daphne D. Cohoon, 770 N.E.2d 885 (Ind. App. 2002.)) The court held that notwithstanding the alternative dispute resolution rules matters such as child support, child custody, and parental visitation should be solely determined by the courts. The court opinion indicated that if arbitration expressly provided for judicial review of an arbitrator's decision then the process would be acceptable for custody, support, and visitation.

Mr. Pennamped encouraged the committee to consider legislation providing for arbitration in domestic relations cases. He explained that the legislation should allow the parties by agreement to submit to arbitration all issues arising from legal separation or dissolution of marriage.

Senator Bowser asked Mr. Pennamped if arbitration would expedite resolution of domestic relations cases. Mr. Pennamped responded that arbitration should have that effect.

Representative Summers asked who bears the cost of arbitration. Mr. Pennamped indicated that the parties to the domestic relations case bear the costs.

Amendment to IC 33-2.1-10.7

Representative Summers presented committee members with a copy of IC 33-2.1-10-7. This statute requires the committee to submit an annual report to the Supreme Court Administrator and the Legislative Services Agency not later than August 1. Representative Summers asserted that the statute should be amended to allow the filing of the annual report not later than November 1 of each year. There was not a quorum at the meeting so no official committee recommendation was made regarding the suggested amendment.

Discussion of opinion of the 7th circuit court of appeals

Marge Hefner addressed the committee regarding a recent decision by the 7th Circuit Court of Appeals. The appellate decision prevented the Family and Social Services Administration from collecting overpayments made to food stamp recipients. Ms. Hefner cited the opinion as evidence that overpayment error occurs in the context of child support payments. Ms. Hefner provided the committee members with a copy of a newspaper article that summarized the appellate court's decision. (Exhibit A)

Review of final report and adjournment

The final report was not voted on by the committee because a quorum did not exist. Representative Summers adjourned the meeting at 10:30 a.m.